

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TODD KOWAL,

Defendant.

8:21-CR-25

FINAL TRIAL ORDER

1. TRIAL DATE

Trial in this matter is set on **March 15, 2022**, at **9:00 a.m.** in Courtroom #5, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska 68102. Both voir dire and trial will take place in Courtroom #5. Because this is a criminal case, Defendant must be present in person.

2. PRETRIAL MOTIONS

A. Pretrial Motions Generally:

All pretrial motions must follow the deadlines and procedure set forth in NECrimR [12.3](#).

B. Continuance:

Motions to continue trial must be submitted in accordance with the requirements of NECrimR [12.1](#). Motions to continue trial are referred to the magistrate judge for decision. Any motion to continue trial must be filed electronically, together with a supporting affidavit, as soon as is practicable.

C. Evidentiary Hearings:

Please notify my chambers immediately of any pretrial motion requiring an evidentiary hearing outside the presence of the jury. If a party requests a hearing that takes place in advance of trial, the request must follow the requirements of NECrimR [12.3\(b\)\(4\)](#).

3. PRETRIAL SUBMISSIONS

A. At least seven (7) days before the first day scheduled for trial, counsel for the government shall electronically file the following documents with the Clerk of the Court:

1. Trial brief
2. Witness list
3. Exhibit list
4. Proposed jury instructions and verdict form(s)

In addition to electronically filing the documents, a copy of the government's jury instructions, verdict form(s), witness list, and exhibit list shall be e-mailed as

attachments in Word format to the chambers at the following address:
Buescher@ned.uscourts.gov.

- B.** The defendant is encouraged to submit proposed jury instructions, a verdict form, a witness list, and an exhibit list to Judge Buescher's chambers as well via email at **Buescher@ned.uscourts.gov.** The materials submitted by the defendant shall not be disclosed to the government unless the defendant specifies otherwise.
- C.** The Court expects any required pretrial submissions to be submitted by the deadline in the absence of a filed motion to continue or petition to enter a plea of guilty. Neither a verbal agreement between counsel nor notice to court staff that the parties expect a plea or a continuance to be filed is sufficient to relieve any pretrial filing obligations. Attorneys who fail to comply with this Court's order may be subject to appropriate sanctions.

4. DISCOVERY MATERIAL

A. Depositions:

Proponent: The proponent of a deposition to be used at trial shall deliver a copy of the deposition to Judge Buescher's chambers and to opposing counsel at least seven (7) days before trial. If less than the entire deposition will be offered, the proponent shall deliver: (1) a list or index designating by page and line(s) the testimony to be offered, and (2) a copy of the entire deposition with highlighted parts to be offered.

Objections: A list or index of objections to another party's designated deposition testimony shall be delivered to Judge Buescher's chambers before trial and shall identify by page and line the location of the objection and shall identify the precise nature of the objection.

B. Videotaped Depositions:

Proponent: Videotaped depositions shall be delivered to Judge Buescher's chambers and to opposing counsel as stated in the previous paragraph. The proponent shall provide a transcript with the prospective testimony indexed and highlighted as stated in the previous paragraph.

Objections: A list or index of objections to another party's designated videotaped testimony shall be delivered to Judge Buescher's chambers as stated in paragraph 3.A. The Court may require editing of the videotape in response to pretrial rulings on objections.

5. EXHIBITS

A. Court's Copies:

Each proponent of exhibits shall prepare a three-ring binder containing a copy of each exhibit to be offered. The binder shall be organized by dividers and tabs for quick retrieval of an exhibit during trial and shall be delivered to chambers no later than seven (7) days before the scheduled date of trial.

Each proponent of exhibits must also provide a .pdf or other electronic copy of exhibits with the copy labeled as described below in 5(C) so the Court can electronically save and refer to the exhibits at trial. The exhibits should be e-mailed or otherwise provided to

Courtroom Deputy Tracy McKibben no later than seven (7) days before the scheduled date of the trial: tracy_mckibben@ned.uscourts.gov.

B. Original Exhibits:

Exhibits shall be properly listed and identified on the exhibit form supplied by the Clerk of Court's Office, also available at the court website: <https://www.ned.uscourts.gov/forms>.

C. Marking of Exhibits:

Exhibits must be numbered in accordance with NECrimR [12.7](#). Specifically, all exhibits must be pre-marked with stickers that indicate whether the government or the defendant is offering the exhibit. The government's exhibits will begin with number "1." Defendant's exhibits will begin with the next hundred series following the government's last exhibit. (e.g. Ex. 100 where the government's last exhibit was Ex. 54).

6. WITNESS LIST

A party's witness list shall include the full name of each witness. Witnesses who do not appear to testify when scheduled will be considered withdrawn. To avoid redaction issues, witnesses should be instructed not to give their exact addresses during trial.

7. REQUESTS FOR INTERPRETERS OR COURTROOM EQUIPMENT

Requests for the services of a court interpreter should follow the deadlines set forth in NECrimR [28.2](#).

Please notify the courtroom deputy before trial if you request the use of any of the courtroom technology and if you need to schedule a time for training. More information is available on the web at www.ned.uscourts.gov. Court technology installed in Judge Buescher's courtroom is as follows: wireless Internet access, a large flat screen television, attorney and witness screens with annotation abilities, jury box with monitors for viewing evidence, document camera, annotation monitors, DVD player (please check your file types), assisted listening devices, video conferencing, telephone conferencing, and table interface at attorney tables to allow connection to laptops for displaying digital documents, video, etc. through the courtroom multimedia system.

8. CONDUCT AT TRIAL

Judge Buescher will meet with counsel in Courtroom #5 at 8:30 a.m. on the first day of trial. Trial will commence at 9:00 a.m. each day, unless otherwise ordered. The Court will conduct a general voir dire examination. Counsel may supplement, but not repeat, the Court's voir dire examination. Any suggested questions for voir dire by the Court shall be delivered to Judge Buescher's chambers prior to commencement of trial. The Court may impose a time limit on counsels' voir dire. Examination of witnesses will be by direct, cross, and redirect examination. There will be no recross unless authorized by the Court.

9. COVID-19 SPECIAL PROCEDURES

A. Voir Dire

The examination of the venire will take place in Courtroom #5.

Case-specific voir dire will be limited, unless requested by counsel.

B. Masks

The Court will require masks for the venire during voir dire given the number of people in the courtroom and various health directives and guidance. Judge Buescher will direct at the time trial begins the mask policy during the trial.

C. Exhibits

Handling of exhibits should be kept to a minimum, and counsel should make every effort to make arrangements or agreements in advance and to submit and present as much evidence as possible via electronic means.

10. PLEA

It is the responsibility of counsel for all parties to notify the Court immediately of any change of plea. Counsel shall immediately notify the Court by informing the courtroom deputy at 402-661-7351 if the Court is open or 402-669-7410 if the Court is closed.

IT IS SO ORDERED.

Dated this 4th day of March, 2022.

BY THE COURT:



Brian C. Buescher
United States District Judge